

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Eugene Westmoreland,)
)
)
 Plaintiff,)
)
)
 23-cv-1851
-vs-)
)
)
Thomas Dart, Sheriff of Cook)
County, and Cook County, Illinois,)
)
)
)
 Defendants.)

PLAINTIFF'S MOTION FOR LEAVE TO FILE PERSUASIVE AUTHORITY

Plaintiff Eugene Westmoreland, by counsel, moves the Court for leave to file persuasive authority, the district court's decision in *Hernandez v. Dart*, 23-cv-16970, 2024 WL 4903906, (N.D. Ill. Nov. 27, 2024) (Harjani, J.), granting class certification for individuals with an alert for canes, crutches, and walkers who traverse the Cermak and RTU east tunnel ramp.

Grounds for this motion are as follows:

1. Plaintiff Eugene Westmoreland, a wheelchair-user, alleges ramps in the Cook County Jail's Residential Treatment Unit (RTU) do not comply with the structural standards required by the Americans with Disabilities Act (ADA).
2. Plaintiff seeks to represent a class under Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure of wheelchair-users. See Dkt. 7, Motion for Class Certification.
3. On November 27, 2024, the district court in *Hernandez v. Dart*, 23-cv-16970, certified classes under Rule 23(b)(2) and (b)(3), relating to one of the

ramps at issue in this case, the RTU east tunnel. The *Hernandez* court interpreted the Seventh Circuit's holdings in *Bennett v. Dart*, 953 F.3d 467 (7th Cir. 2020) (*Bennett I*), and *Bennett v. Dart*, 53 F.4th 419 (7th Cir. 2022) (*Bennett II*), explaining these rulings "dictate the outcome in this case." *Hernandez*, 2024 WL 4903906, at * 4.

4. The *Hernandez* opinion, attached as Exhibit 1, is persuasive authority that this case should be certified as a class action.

5. Plaintiff shared a draft of this motion with defense counsel on December 1. At the time of filing this motion, defense counsel represented they did not have a position from the clients whether this motion is opposed or unopposed.

It is therefore respectfully requested that the Court grant plaintiff's motion for leave to file this motion calling attention to the recent decision in *Hernandez v. Dart*, 2024 WL 4903906, as persuasive authority in support of plaintiff's pending motion for class certification.

Respectfully submitted,

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